



US Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St. S.W.
Washington, D.C. 20590

SEP 21 2004

Mr. Steven Malcolm
President
Williams Pipeline Company
One Williams Center
Tulsa, Oklahoma 74101

Re: CPF No. 48513

Dear Mr. Malcolm:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$6,000. It further finds that you have completed the actions specified in the Notice required to comply with the pipeline safety regulations. When the civil penalty is paid, this enforcement action will be closed. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. §190.5.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of

Williams Pipeline Company,

Respondent

CPF No. 48513

FINAL ORDER

On April 13-17, 1998, pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of Respondent's facilities in Oklahoma from the Allen pump station to the Drumright pump station. As a result of the inspection, the Director, Southwest Region, OPS, issued to Respondent, by letter dated June 19, 1998, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. § 195.581 and proposed assessing a civil penalty of \$6,000 for the alleged violation.¹ The Notice also proposed that Respondent take certain measures to correct the alleged violation.

Respondent responded to the Notice by letter dated August 20, 1998 (Response). Respondent did not contest the allegation of violation but offered an explanation for the violation, provided information concerning the corrective action it had taken, and requested that the proposed civil penalty be reduced. Respondent did not request a hearing and therefore waived its right to one.

FINDING OF VIOLATION

In its Response, Respondent did not contest the violation alleged in the Notice. Accordingly, I find that Respondent violated the following section of 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. § 195.581 failing to clean and coat with a coating material suitable for the prevention of atmospheric corrosion the aboveground sections of pipeline at Respondent's Castle pump station.

¹The corrosion protection requirements cited in the Notice at § 195.416(1) can now be found at § 195.581.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to a civil penalty not to exceed \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 for any related series of violations. The Notice proposed a civil penalty of \$6,000 for the violation of 49 C.F.R. § 195.581.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require.

In its Response, Respondent requested a reduction in the civil penalty. Respondent explained that it had overlooked this violation due to an "unusually high rate of promotion of area managers" at the station. According to Respondent, the personnel changes prevented area management at the pump station from being in charge long enough to learn about the violation and to coordinate appropriate corrective action.

Respondent is ultimately responsible for ensuring that its pipelines and facilities comply with pipeline safety regulations. Therefore, I do not find that changes in Respondent's managerial staff excuse Respondent's failure to comply with the regulation in this case. Moreover, during the inspection, Respondent's Supervisor of Pipeline Safety admitted that he had knowledge of the deficiency at the Castle pump station since the 1995 inspection.

Failure to clean and coat pipelines exposed to the atmosphere can lead to atmospheric corrosion and damage to the pipe. Atmospheric corrosion may potentially lead to a hazardous release if corrosion damage causes the pipe to leak or rupture. A Warning Letter (CPF No. 45511-W) was issued to Respondent on July 14, 1995, advising Respondent of the deficiency at the Castle pump station. The letter warned Respondent that enforcement action would be taken if a subsequent inspection revealed this deficiency had not been corrected. The 1998 inspection revealed that Respondent had not corrected this deficiency.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$6,000.

Payment of the civil penalty must be made within 20 days of service. Payment may be made by sending a certified check or money order (containing the CPF Number for this case) payable to "U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-120), P.O. Box 25082, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit this payment to be made by wire transfer, through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-4719.

Failure to pay the \$6,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a United States District Court.

COMPLIANCE ORDER

The Notice proposed a compliance order for the violation of § 195.581. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under Chapter 601. The Director, Southwest Region, OPS, has verified that Respondent has cleaned and coated the aboveground pipeline components at the Castle pump station as specified in the Proposed Compliance Order. Accordingly, since compliance has been achieved with respect to this violation, it is not necessary to include the compliance terms in this Final Order.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the petition automatically stays the payment of any civil penalty assessed. However if Respondent submits payment for the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived. The terms and conditions of this Final Order are effective on receipt.

William H. Butler

for

Stacey Gerard
Associate Administrator
for Pipeline Safety

SEP 21 2004

Date Issued